

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

VOLTAIRE BUILDERS, LLC,

Plaintiff,

v.

No. 19-cv-0685 SMV/GBW

**BRIAN BAILEY; MICHELLE BAILEY;
PECOS VALLEY PIZZA, INC.; and
BAM! PIZZA LLC;**

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER is before the Court sua sponte. Plaintiff filed its Complaint against Defendants in the Northern District of Texas on April 30, 2019. [Doc. 1] at 1. On order by the district court in the Northern District of Texas, *see* [Doc. 7], Plaintiff amended its Complaint on June 27, 2019, to adequately allege each party's citizenship, [Doc. 8]. The case was transferred to this district on July 26, 2019. [Doc. 13]. Plaintiff had 90 days from filing of the original Complaint, or until July 29, 2019, to effect service of process. Fed. R. Civ. P. 4(m) (2015) (providing a 90-day deadline to effect service); *Bolden v. City of Topeka*, 441 F.3d 1129, 1148 (10th Cir. 2006) (holding that the deadline to effect service "is not restarted by the filing of an amended complaint except as to those defendants newly added in the amended complaint"). To date, there is no indication on the record that service of process has been effected as to any Defendant.

IT IS THEREFORE ORDERED that Plaintiff show good cause why its claims against Defendants should not be dismissed without prejudice for failure to comply with the service

provision of Rule 4(m). *See Espinoza v. United States*, 52 F.3d 838, 841 (10th Cir. 1995). Plaintiff must file its response no later than **September 25, 2019**.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'S. Vidmar', is positioned above a horizontal line.

STEPHAN M. VIDMAR
United States Magistrate Judge